

**RECEIVED**

MAR 16 2006

Office of Patent Publication  
Director's Office#47  
3/16/06  
def

DOCKET NO. Interference 105,114

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: SKOULTCHI

ART UNIT: 1632

SERIAL NO.: 08/102,390

EXAMINER: Shin Lin CHEN

FILING DATE: AUGUST 5, 1993

FOR: PRODUCTION OF PROTEINS USING HOMOLOGOUS RECOMBINATION

**COMMUNICATION REGARDING STATUS OF APPLICATION***Via Facsimile 571-273-9922*MAIL STOP PGPUB  
ASSISTANT COMMISSIONER FOR PATENTS  
PO BOX 1450  
ALEXANDRIA, VA 22313-1450

ATTN: Mr. Don FAIRCHILD

On March 15, 2006, undersigned counsel spoke with Mr. Don Fairchild of the United States Patent and Trademark Office regarding the status of the above-captioned patent application. Mr. Fairchild was extremely helpful, and Applicant and real party-in-interest therefor, Cell Genesys, Inc., extend their appreciation.

Mr. Fairchild was attempting to contact the real party-in-interest for the above-captioned patent application because mail, in the form of a Notice of Allowance, had been returned as undeliverable. Mr. Fairchild advised that the last Power of Attorney, for which he had records in this case, was on behalf of a law firm no longer in existence, Pennie & Edmonds. The Office is advised, as detailed below, that undersigned counsel is counsel of record in the above-captioned patent application, which remains subject to the review of interference proceedings, Interference 105,114, which proceedings are

U.S. Application Serial No.: 08/102,390  
Communication Regarding Status of Application

---

currently ongoing in the United States District Court for the District of Massachusetts. The case should remain on suspension.

As reflected in Attachment A hereto, an Associate Power of Attorney, in favor of undersigned counsel of record was then executed by then-counsel, Linda Judge, on February 18, 2003. That Power was submitted to the United States Patent and Trademark Office, Board of Patent Appeals and Interferences, in Patent Interference 103,737, on February 21, 2003, as reflected in Attachment B. Undersigned counsel was, at the time of filing of Attachment B, a partner in the law firm of Piper Rudnick Marbury and Wolf.

The above-captioned patent application, USSN 08/102,390 was involved in Interference 103,737, and accordingly on suspension for prosecution.

Subsequently, Interference 103,707, was redeclared as Interference 105,114. The above-captioned patent application remained on suspension in favor of Interference 105,114. Undersigned counsel was designated as lead counsel, see Attachment C.

The above-captioned patent application remained on suspension through the pendency of Interference 105,114. Amended judgment was entered in Interference 105,114, on July 8, 2004.

Within the time provided by rule and statute, Cell Genesys filed an action pursuant to 35 USC §146, seeking review of the determination of the Board in Interference 105,114. Pursuant to rule and statute, the Board was notified of the same. The case was initially filed in the United States District Court for the District of

U.S. Application Serial No.: 08/102,390  
Communication Regarding Status of Application

---

Columbia; Cell Genesys, Inc., v. Applied Research Systems ARS Holdings N.V. (ARS). At about the same time, ARS filed an action pursuant to 35 USC §146 in the United States District Court for District of Massachusetts. Undersigned counsel is counsel of record for Cell Genesys in that matter. Ultimately, the two actions filed under 35 USC §146 were consolidated in the United States District Court for the District of Massachusetts, the Honorable Judge Wolf, as C.A. 04-11810-MLW and 05-12448-MLW. Undersigned counsel remains counsel of record, at the address provided:

Steven B. Kelber  
Merchant and Gould  
901 Fifteenth Street N.W., Suite 850  
Washington D.C. 20005  
(fax) 202.326.0778  
(email) Skelber@merchant-gould.com

Undersigned counsel understands that a Notice of Allowance has been issued in the above-captioned patent application. While the same is appreciated, it should be clear from the above narrative that any issuance of a Notice of Allowance is premature.

CGI has sought review of the decision of the Board of Patent Appeals and Interferences to secure allowance of those claims found unpatentable, and ARS has sought review to, *inter alia*, to seek a determination that the claim found allowable to CGI be found unpatentable. It is suggested that the case be suspended, pending

U.S. Application Serial No.: 08/102,390  
Communication Regarding Status of Application

---

resolution of the pending reviews of Interference 105,114. The Office is invited to contact undersigned counsel to facilitate these matters at 202-326-0333.

March 15, 2006

---

Date

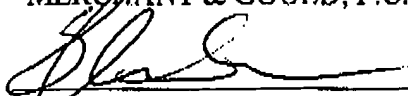
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
Telephone No. (202) 326-0300  
Facsimile No. (202) 326-0778

**23552**

Patent & Trademark Office

Respectfully submitted,

MERCHANT & GOULD, P.C.



Steven B. Kelber  
Registration No. 30,073

U.S. Application Serial No.: 08/102,390  
Communication Regarding Status of Application

---

ATTACHMENT A

Paper No.

Filed on behalf of:

By:

Senior Party SKOULTCHI  
Filed on behalf of Skoultchi  
Steven B. Kelbar, Esquire  
Piper Rudnick LLP  
1200 Nineteenth Street, N.W.  
Washington, D.C. 20036-2430  
Tel: (202) 861-3900 (Receptionist)  
(202) 223-2085 (Facsimile)  
E-mail: steven.kelbar@piperrudnick.com

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**  
(Administrative Patent Judge Michael P. Tierney)

**SCOTT C. CHAPPEL**

Junior Party  
(Patent 5,272,071)

vs.

**ARTHUR I. SKOULTCHI**

Senior Party  
(Application 08/102,390)

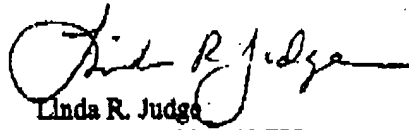
Patent Interference No.103,737

**ASSOCIATE POWER OF ATTORNEY**

Please recognize Steven B. Kelber Registration No. 30,073 as Associate Attorney, with power to prosecute U.S. Patent Application Serial No. 08/102,390 and to take all actions on its behalf in Interference 103,737 before the United States Patent and Trademark Office.

Respectfully submitted,

CELL GENESYS



Linda R. Judge  
Registration No. 42,702  
Attorney for SKOULTCHI

342 Lakeside Drive  
Foster City, California 94404  
Telephone: (650) 425-4650  
Facsimile: (650) 349-7392  
INTERFERENCE 103,737

-0-

U.S. Application Serial No.: 08/102,390  
Communication Regarding Status of Application

---

ATTACHMENT B



Filed on behalf of:

By:

Senior Party SKOULTCHI  
Filed on behalf of Skoultchi  
Steven B. Kelber, Esquire  
Piper Rudnick LLP  
1200 Nineteenth Street, N.W.  
Washington, D.C. 20036-2430  
Tel: (202) 861-3900 (Receptionist)  
(202) 223-2085 (Facsimile)  
E-mail: steven.kelber@piperrudnick.com

Paper No. \_\_\_\_\_

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

(Administrative Patent Judge Michael P. Tierneyl)

SCOTT C. CHAPPEL

Junior Party  
(Patent 5,272,071)

vs.

ARTHUR I. SKOULTCHI

Senior Party  
(Application 08/102,390)

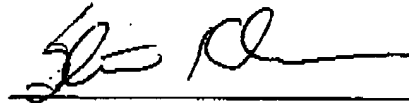
Patent Interference No.103,737

SKOULTCHI DESIGNATION OF LEAD AND BACK-UP COUNSEL,  
37 C.F.R. §1.601(k)

Pursuant to 37 C.F.R. §1.601(k), the Senior Party Skoultchi (U.S. Patent Application Serial No. 08/102,390), hereby designates as lead counsel, Steven B. Kelber, Registration No. 30,073 and as back-up counsel Linda R. Judge, Registration No. 42,702, who can be reached at telephone number (650) 425-4650. Responsive to Paper No. 75, of the Notice Redeclearing and Transferring Interference, the E-mail address for lead counsel is steven.kelber@piperrudnick.com and the E-mail address for back-up counsel is linda.judge@cellgenesys.com.

Respectfully submitted,

PIPER RUDNICK LLP



Steven B. Kelber  
Registration No. 30,073  
Attorney for SKOULTCHI

1200 Nineteenth Street, N.W.  
Washington, D.C. 20036-2430  
Telephone: (202) 861-3900  
Facsimile: (202) 223-2085  
INTERFERENCE 103,737  
ATTORNEY DOCKET NO. 306229-

**CERTIFICATE OF SERVICE**

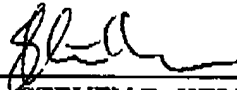
I hereby certify that true copies of:

1. SKOULTCHI DESIGNATION OF LEAD AND BACK-UP COUNSEL,  
37 C.F.R. §1.601(k)
2. ASSOCIATE POWER OF ATTORNEY
3. CERTIFICATE OF SERVICE

were served upon Counsel as follows:

Roger L. Browdy  
BROWDY and NEIMARK, P.L.L.C.  
419 Seventh Street, N.W.  
Suite 300  
Washington, D.C. 20004

via Federal Express, this 21<sup>st</sup> day of FEBRUARY, 2003



STEVEN B. KELBER

ATTORNEY DOCKET NO: 306229-  
INTERFERENCE 103,737

U.S. Application Serial No.: 08/102,390  
Communication Regarding Status of Application

---

ATTACHMENT C

Filed on behalf of:

By:

Paper No. \_\_\_\_\_

Junior Party CELL GENESYS, INC.  
Filed on behalf of Cell Genesys, Inc.  
Steven B. Kelber, Esquire  
Piper Rudnick LLP  
1200 Nineteenth Street, N.W.  
Washington, D.C. 20036-2430  
Tel: (202) 861-3900 (Receptionist)  
(202) 223-2085 (Facsimile)  
E-mail: steven.kelber@piperrudnick.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Michael P. Tierney)

---

APPLIED RESEARCH SYSTEMS ARS HOLDING, N.V.

Junior Party  
(Patent 5,272,071)

vs.

CELL GENESYS, INC.

Junior Party  
(Application 08/102,390)

---

Patent Interference No.105,114


---

CELL GENESYS DESIGNATION OF LEAD AND BACK-UP COUNSEL,  
37 C.F.R. §1.601(k)

Pursuant to 37 C.F.R. §1.601(k), the Junior Party Cell Genesys (U.S. Patent Application Serial No. 08/102,390), hereby designates as lead counsel, Steven B. Kelber, Registration No. 30,073 and as back-up counsel Linda R. Judge, Registration No. 42,702, who can be reached at telephone number (650) 425-4650. Responsive to Paper No. 1, of the Notice Redeclearing Interference No. 103,737, the E-mail address for lead counsel is steven.kelber@piperrudnick.com and the E-mail address for back-up counsel is linda.judge@cellgenesys.com.

Respectfully submitted,

PIPER RUDNICK LLP



Steven B. Kelber  
Registration No. 30,073  
Attorney for CELL GENESYS, INC

1200 Nineteenth Street, N.W.  
Washington, D.C. 20036-2430  
Telephone: (202) 861-3900  
Facsimile: (202) 223-2085  
INTERFERENCE 105,114  
ATTORNEY DOCKET NO. 306229-21

**CERTIFICATE OF SERVICE**

I hereby certify that true copies of:

1. CELL GENESYS DESIGNATION OF LEAD AND BACK-UP COUNSEL,  
37 C.F.R. §1.601(k)
2. CERTIFICATE OF SERVICE

were served upon Counsel as follows:

Roger L. Browdy  
BROWDY and NEIMARK, P.L.L.C.  
624 9th Street, N.W.  
Washington, D.C. 20001

via Federal Express, this 9<sup>th</sup> day of APRIL, 2003

  
\_\_\_\_\_  
STEVEN B. KELBER

ATTORNEY DOCKET NO: 306229-21  
INTERFERENCE 105,114